



Developer Fees and State Bond Funding

Background for
Fremont Unified School District/Fremont City Council

May 2, 2016

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Overview

- I. History of Developer Fees
- II. Developer Fees: Legal Requirements and Process
- III. The Deal: Senate Bill 50 (1998)
- IV. History of State School Bonds
- V. Local Funding for Schools
- VI. School Funding since 2008 – The Great Recession
- VII. The Broken System
- VIII. Pursuing a Bond without the Governor's Blessing

History of Developer Fees

- 1970 – The California Environmental Quality Act (CEQA)
- 1977 – SB 201 authorized fees to fund interim school facilities imposed by cities/counties on behalf of school districts
- 1986 – AB 2926 allowed school districts to levy impact fees on new residential and commercial/industrial construction. Fees capped in Statute and updated every 2 years (Level 1 Fees)

History of Developer Fees

- 1988 & 1991 – Mira-Hart-Murrieta court decisions determined school districts could stop development projects if impacts were not adequately mitigated
- 1998 – SB 50 suspended Mira-Hart-Murrieta and created current State School Facilities Program. School districts that meet criteria can levy additional fees on residential development designed to reflect the funding provided under the State School Facilities program (Level 2 Fees – 50% and Level 3 Fees -- 100%)

Types of Developer Fees

	LEVEL 1	LEVEL 2	LEVEL3
PURPOSE	To fund the construction and reconstruction of school facilities necessary to address the impacts of new development.	<ul style="list-style-type: none"> Same as Level 1 School facilities must be listed in the Schools Facility Needs Analysis Intended to represent 50% of a school district's costs to accommodate increased enrollment 	<ul style="list-style-type: none"> Same as Level 1 School facilities must be listed in the Schools Facility Needs Analysis Intended to cover 100% of a school district's cost to accommodate increased enrollment
AMOUNT	<ul style="list-style-type: none"> \$3.36 per sq. ft. of Residential* \$0.54 per sq. ft. of Commercial/Industrial* <p>* These may increase on January 27, 2016.</p>	Varies by district according to local factors, including: -student generation -land costs	Level 3 fees currently unavailable. (But when available, amount is double the Level 2 fee).
LEVIED ON	<ul style="list-style-type: none"> Residential Commercial 	Residential Only	Residential Only

Process to Adopt Level 1 Fees

JUSTIFICATION STUDY

PUBLIC REVIEW PERIOD & NOTICE OF HEARING

PUBLIC HEARING

ADOPT FEES VIA RESOLUTION

Justification Study

- Establish Nexus:

- Identify purpose of fees
- Identify use to which fee is to be put
- Determine if a reasonable relationship between type of development & fee's use
- Determine if a reasonable relationship between type of development & need for school facility

Eligibility for Level 2 or Level 3 Fees

- Timely application to State Allocation Board for state funding under School Facility Program
 - Have received an eligibility determination from SAB
- Conduct/adopt School Facility Needs Analysis (SFNA)
- Meet 2 of the following 4 criteria:
 - Have specified percentage of “substantial enrollment” in multitrack year-round education
 - Meet specified bonding/debt capacity requirements
 - Had a GO Bond on the ballot within last 4 years that received at least 50% plus 1 of votes cast
 - At least 20% of teaching stations are portable

Process to Adopt Level 2 or Level 3 Fees (when available)

TIMELY APPLICATION TO STATE ALLOCATION BOARD FOR STATE PROGRAM
SCHOOL FACILITY NEEDS ANALYSIS
PUBLIC REVIEW PERIOD & NOTICE OF HEARING (PROVIDE EARLY NOTICE TO PLANNING AGENCIES)
RESPOND TO WRITTEN COMMENTS
PUBLIC HEARING
ADOPT SFNA & FEES VIA RESOLUTION

School Facility Needs Analysis

- Establish Nexus
- Project enrollment and calculate capacity
 - Project unhoused students over next 5 years
- Determine facilities needed to house unhoused students
 - Evaluate surplus sites owned by district
- Determine cost of needed facilities
 - *Site acquisition*
 - *Site development*
 - *Facility construction*
- Determine cost per sq. foot of new residential development

Requirement for Level 3 Fees to be Available

- Establish that State School Bond Funds are no longer available:
 - When State Allocation Board (SAB) is no longer approving apportionments for new construction through the State School Facility Program.
- Process:
 - SAB makes determination.
 - SAB notifies the Secretary of the Senate and the Chief Clerk of the Assembly in writing of the determination and the date when State funds are no longer available.
 - Each house publishes the SAB's determination in its journal.

(Gov. Code, Section 65995.7)

The Deal: Senate Bill 50 (1998)

- State and Local Partnership Created in Statute
- Level 2 Developer Impact Fees Initiated in Statute
- Level 2 expected to Match State Grant Funding
- To Guarantee Continuous Funding, Level 3 Fees Established in Statute with Trigger Mechanism
- That Trigger to Occur If/When State Bonds are Depleted

History of State School Bonds

- 1998 – Proposition 1A - \$9.2 Billion
- 2002 – Proposition 47 - \$13.05 Billion
- 2004 – Proposition 55 - \$12.3 Billion
- 2006 – Proposition 1D - \$10.4 Billion
- 2008 – School Leaders Began the Effort to Achieve a New School Bond

Local Funding for Schools

- Voter approved general obligation bonds are the primary tool by which California districts are currently funding facility improvement projects.
- Districts can seek voter support for a local ballot measure which authorizes a total dollar amount of bonds that will be sold at designated tax rates.

Local Funding for Schools (cont.)

- A school district must agree to use bond proceeds towards projects which are specified within the ballot language.
- Ad valorem property taxes are levied on all taxable property within a school district to pay debt service on bonds.

Local Funding for Schools (cont.)

- California law places a limit on the amount of bonds a school district can have outstanding as well as the maximum tax rate per bond measure:
 - Total bond debt cannot exceed 2.5% of assessed value (for unified school districts)
 - Maximum tax rate per bond measure cannot exceed \$60/\$100,000 of assessed value (Prop. 39 GO Bonds)

School Funding Since 2008

The Great Recession

- State Ceases Continuous Funding of Projects
- State Initiates Metering of Construction Project Apportionments (2009)
- Metering of Projects Becomes Statewide Policy by Action of the State Allocation Board (SAB) (2010)

School Funding Since 2008

The Great Recession

- New Construction and Modernization Bond Authority Depleted (2012)
- State Allocation Board Takes Action to Support Suspending Level 3
- With State Budget Adoption the Governor and Legislature Suspend Level 3 Developer Fees: 2012-2014 in Statute

The Broken System

- The Level 3 Suspension Breaks the SB 50 Deal (2012)
- No Protections are Added in Law for School Districts Experiencing Student Growth
- Governor Kills the Bond Bill at the End of the Legislative Session: AB 2235 (2014)

Pursuing a Bond without the Governor's Support

- Californians for Quality Schools is Formed (2014)
- \$9 Billion Initiative is Filed with the Attorney General (January 2015)
- Initiative Qualifies for the November 2016 Ballot (September 2015)
- The Bond Initiative is Independent of Any Gubernatorial or Legislative Action: It Can Not Be Removed



thank
you!

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